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IN THE
Supreme Court of the United States

OCTOBER TERM, 1949.

No. 178.

J. BAKER BRYAN, SR., *Petitioner,*

v.

UNITED STATES OF AMERICA, *Respondent.*

PETITION FOR REHEARING.

CARL J. BATTER,
910 Seventeenth Street, N. W.,
Washington 6, D. C.
Attorney for the Petitioner.

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UNITED STATES OF AMERICA, *Respondent.*

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*To the Honorable the Chief Justice and the Associate
Justices of the Supreme Court of the United States:*

COMES NOW your petitioner, J. Baker Bryan, Sr., by his attorney, Carl J. Batter, and petitions this Court to grant a rehearing in the above-entitled cause, and as reasons therefor states as follows:

1. The opinion of this Court rests upon the motion made after verdict pursuant to Rule 29(b) of the Rules of Criminal Procedure, whereas in fact, that motion was not before this Court for review (Opinion pp. 7-8);

2. The only issue that gave this Court jurisdiction over the matter was the motion denied by the Court of Appeals addressed solely to Rule 29(a) and the motion before the trial court made at the conclusion of all the evidence (R. 235a, 236);

3. This Court has failed to decide whether the remand for a new trial on the motion addressed to the motion made at the close of all the evidence is a "just" and "appropriate" judgment;

4. In the absence of error by the trial court your petitioner would have procured a judgment of acquittal on the motion made at the close of all the evidence; and no lesser judgment on review of such motion can be considered "just" and "appropriate";

5. The review of the decision of the trial judge on the motion made at the close of all the evidence did not require a new trial as a remedy and the appeal is definitely divisible into items addressed to a new trial and those addressed to a review of that motion;

6. The point of double jeopardy, when viewed in the light of the motion made at the close of all the evidence, is clearly distinguishable from the cases relied upon by this Court in holding out contention in that respect, "not persuasive".

WHEREFORE, it is respectfully prayed that this petition be granted.

Respectfully submitted,

CARL J. BATTER,
910 Seventeenth Street, N. W.,
Washington 6, D. C.
Attorney for the Petitioner.

January, 1950.

Certificate of Counsel.

Carl J. Batter, Counsel for Petitioner, hereby declares that the foregoing Petition for Rehearing is presented in good faith and not for delay; and that the failure to grant such petition will leave the issue presented by the granting of the writ of certiorari undecided.

CARL J. BATTER.